

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

ARNO JONES,

PLAINTIFF,

VS.

CIVIL ACTION NO. 2:05CV220-P-A

**YEURYS J. JIMENEZ AND
STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,**

DEFENDANTS.

ORDER

This matter comes before the court upon Plaintiff's Motion to Remand [5-1]. After due consideration of the motion – the defendants having filed no response thereto – the court finds as follows, to-wit:

The plaintiff filed the instant action in October 2005 in the Circuit Court of Panola County, Mississippi, Second Judicial District. The Complaint named as defendants Yeury J. Jimenez, Safeco Insurance Company of Illinois, Safeco Insurance Company of America, First National Insurance Company of America, and State Farm Mutual Automobile Company. It is undisputed that the plaintiff served all of the defendants except Jimenez on October 7, 2005. The plaintiff served Jimenez on October 13, 2005.

On November 3, 2005, Safeco Insurance Company of Illinois, Safeco Insurance Company of America, and First National Insurance Company of America removed this action to federal court urging federal diversity jurisdiction. On November 15, 2005, Safeco Insurance Company joined in the Notice of Removal. The record reflects that Jimenez never joined in the removal.

On May 16 2006, this court entered an Agreed Order of Dismissal dismissing with prejudice the plaintiffs claims against Safeco Insurance Company of Illinois, Safeco Insurance Company of

America, and First National Insurance Company of America. The plaintiff's claims against Jimenez and State Farm remain.

Nevertheless, the plaintiff in the instant motion to remand is correct that pursuant to *Getty Oil Division of Texaco v. Insurance Company of North America*, 841 F.2d 1254, 1263 (5th Cir. 1988), the instant action should be remanded because all of the non-resident defendants did not join in removal within thirty days from October 7, 2005 – the date upon which the plaintiff served the first defendant.

IT IS THEREFORE ORDERED AND ADJUDGED that:

(1) Plaintiff's Motion to Remand [5-1] is **GRANTED**; therefore

(2) This action is **REMANDED** to the Circuit Court of Panola County, Mississippi, Second Judicial District; and

(3) This case is **CLOSED**.

SO ORDERED this the 28th day of June, A.D., 2006.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE